

Union Calendar No. 841

115TH CONGRESS
2D SESSION

H. R. 6652

[Report No. 115-1082]

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2018

Mr. NEWHOUSE introduced the following bill; which was referred to the Committee on Natural Resources

DECEMBER 19, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on August 3, 2018]

A BILL

To direct the Secretary of the Interior to convey certain facilities, easements, and rights-of-way to the Kennewick Irrigation District, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEFINITIONS.**

4 *In this Act:*

5 (1) *AGREEMENT.*—*The term “Agreement” means*
6 *the agreement required under section 2(a).*

7 (2) *DISTRICT.*—*The term “District” means the*
8 *Kennewick Irrigation District, located in Benton*
9 *County, Washington, which operates and maintains a*
10 *portion of the Kennewick Division of the Yakima*
11 *Project constructed by the United States to enable the*
12 *Kennewick Irrigation District to carry out authorized*
13 *purposes pursuant to the Act of June 12, 1948 (62*
14 *Stat. 382).*

15 (3) *DISTRICT’S HEAD GATE.*—*The term “Dis-*
16 *trict’s head gate” means the point of diversion for the*
17 *Kennewick Irrigation District, identified as the KID*
18 *Main Canal Headworks at the following location:*
19 *KID Main Canal Headworks, 200 feet east and 1100*
20 *feet north, more or less, from the southwest corner of*
21 *section 16, being within the northwest $\frac{1}{4}$ of the south-*
22 *west $\frac{1}{4}$ of the southwest $\frac{1}{4}$ of section 16, T. 9 N., 26*
23 *E.W.M.*

1 (4) *DIVISION.*—The term “Division” means the
2 *Kennewick Division, including the Transferred*
3 *Works.*

4 (5) *TRANSFERRED WORKS.*—The term “Trans-
5 *ferred Works” means the canals, laterals, and appur-*
6 *tenant works and lands, which begin at the District’s*
7 *head gate and extends approximately 40 miles east to*
8 *the Columbia River built to serve the place of use of*
9 *the 20,201 acres of currently irrigated irrigable lands*
10 *entitled to delivery of water within the Kennewick Ir-*
11 *rigation District.*

12 (6) *SECRETARY.*—The term “Secretary” means
13 *the Secretary of the Interior.*

14 **SEC. 2. AGREEMENT, CONVEYANCE, REPORT.**

15 (a) *AGREEMENT.*—Not later than 2 years after the
16 *date of the enactment of this Act, the Secretary, acting*
17 *through the Bureau of Reclamation, shall enter into an*
18 *agreement with the District to determine the legal, institu-*
19 *tional, and financial terms related to the conveyance of the*
20 *Transferred Works. The Agreement shall be completed after*
21 *the requirements in section 5(a) are satisfied. This Agree-*
22 *ment shall be in accordance with and subject to Memo-*
23 *randum of Agreement No: R18MA13703 between the Dis-*
24 *trict and the Bureau of Reclamation.*

1 (b) *CONVEYANCE.*—Subject to valid leases, permits,
2 rights-of-way, easements, and other existing rights and in
3 accordance the terms and conditions set forth in the Agree-
4 ment and this Act, the Secretary shall convey to the District
5 all right, title, and interest of the United States in and to
6 the Transferred Works.

7 (c) *REPORT.*—If the conveyance authorized by sub-
8 section (b) is not completed within 2 years after the date
9 of the enactment of this Act, the Secretary shall submit to
10 Congress a report that—
11 (1) describes the status of the conveyance;
12 (2) describes any obstacles to completing the con-
13 veyance; and
14 (3) specifies an anticipated date for completion
15 of the conveyance.

16 **SEC. 3. LIABILITY.**

17 (a) *DAMAGES.*—Except as otherwise provided by law
18 and for damages caused by acts of negligence committed by
19 the United States or by its employees or agents, effective
20 upon the date of the conveyance authorized by section 2,
21 the United States shall not be held liable by any court for
22 damages of any kind arising out of any act, omission, or
23 occurrence relating to the Transferred Works.

24 (b) *TORTS CLAIMS.*—Nothing in this section increases
25 the liability of the United States beyond that provided in

1 chapter 171 of title 28, United States Code (popularly
2 known as the “Federal Tort Claims Act”).

3 **SEC. 4. BENEFITS.**

4 (a) *STATUS OF LAND.*—After conveyance of the Trans-
5 ferred Works under this Act, the Transferred Works shall
6 not be considered to be a part of a Federal reclamation
7 project.

8 (b) *BENEFITS IF ENTIRE DIVISION CONVEYED.*—If the
9 entire Division is conveyed out of Federal ownership, the
10 District shall not be eligible to receive any benefits, includ-
11 ing project power, with respect to the conveyed Division,
12 except benefits that would be available to a similarly situ-
13 ated entity with respect to property that is not part of a
14 Federal reclamation project.

15 **SEC. 5. COMPLIANCE WITH OTHER LAWS.**

16 (a) *COMPLIANCE WITH ENVIRONMENTAL AND HIS-
17 TORIC PRESERVATION LAWS.*—Before making the convey-
18 ance authorized by this Act, the Secretary shall complete
19 all actions required under the National Environmental Pol-
20 icy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered
21 Species Act of 1973 (16 U.S.C. 1531 et seq.), subtitle III
22 of title 54, United States Code, and all other applicable
23 laws.

24 (b) *COMPLIANCE BY THE DISTRICT.*—After conveyance
25 of the Transferred Works under this Act, the District shall

1 comply with all applicable Federal, State, and local laws
2 and regulations in its operation of the Transferred Works.

3 (c) *APPLICABLE AUTHORITY.*—All provisions of Fed-
4 eral reclamation law (the Act of June 17, 1902 (43 U.S.C.
5 371 et seq.), and Acts supplemental to and amendatory of
6 that Act) shall continue to be applicable to project water
7 provided to the District.

8 **SEC. 6. PAYMENT.**

9 (a) *ADMINISTRATIVE COSTS.*—Except as provided in
10 subsection (b), administrative costs for conveyance of the
11 Transferred Works under this Act shall be paid in equal
12 shares by the Secretary and the District.

13 (b) *REAL ESTATE TRANSFER COST.*—Costs of all
14 boundary surveys, title searches, cadastral surveys, apprais-
15 als, and other real estate transactions required for the con-
16 veyance of the Transferred Works shall be paid by the Dis-
17 trict.

18 (c) *COSTS OF COMPLIANCE WITH OTHER LAWS.*—
19 Costs associated with any review required under the Na-
20 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
21 et seq.), the Endangered Species Act of 1973 (16 U.S.C.
22 1531 et seq.), subtitle III of title 54, United States Code,
23 and all other applicable laws for conveyance of the Trans-
24 ferred Works shall be paid in equal shares by the Secretary
25 and the District.

1 **SEC. 7. MISCELLANEOUS.**

2 (a) *APPLICABILITY OF OTHER LAW.*—Section 1212 of
3 *Public Law 103–434* shall apply to and be incorporated
4 into this Act.

5 (b) *STATUTORY CONSTRUCTION.*—Nothing in this Act
6 shall or shall be construed for any purpose—

7 (1) to transfer, affect, reduce, modify, or impair
8 the water rights of any person;

9 (2) to affect, reduce, modify, or impair the
10 United States' authority to regulate and manage
11 water in the Yakima Basin, including water diverted
12 into the Chandler Power Canal and Prosser Dam
13 through and including the Kennewick Irrigation Dis-
14 trict's head gate;

15 (3) to change how water is diverted at Prosser
16 Dam and delivered to the Kennewick Irrigation Dis-
17 trict through the Chandler pumps through the Dis-
18 trict's head gate; and

19 (4) to affect reduce, modify, or impair the
20 United States' control, management, and ownership
21 of the “Reserved works” as defined in the United
22 States Bureau of Reclamation and Kennewick Irriga-
23 tion District Amendatory Repayment Contract (1953)
24 (Contract No. 14–06–W–56) as amended, at pp. 2–3,
25 which Reserved works include but are not limited to
26 Prosser Dam, the Chandler Power Canal and hydro-

1 *electric and pumping plant, all Yakima Project facil-*
2 *ties, and the siphon under the Yakima River to the*
3 *District's head gate.*

4 **SEC. 8. LIMITATIONS.**

5 *After completing the requirements of the National En-*
6 *vironmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),*
7 *the Secretary of the Interior shall convey title, if the Sec-*
8 *retary affirms in writing to the House Committee on Nat-*
9 *ural Resources and the Senate Committee on Energy and*
10 *Natural Resources that the following criteria have been met:*

11 (1) *The Kennewick Irrigation District agrees to*
12 *accept title to the property proposed for transfer.*

13 (2) *The proposed title transfer will not have an*
14 *unmitigated negative effect on the environment.*

15 (3) *The transfer is consistent with the Sec-*
16 *retary's responsibility to protect land and water re-*
17 *sources held in trust for federally recognized Indian*
18 *Tribes.*

19 (4) *The transfer is consistent with the Sec-*
20 *retary's responsibility to ensure compliance with*
21 *international treaties and interstate compacts.*

22 (5) *The Kennewick Irrigation District agrees to*
23 *provide, as consideration for the assets to be conveyed,*
24 *compensation to the United States worth the equiva-*
25 *lent of the present value of any repayment obligation*

1 *to the United States or other income stream the*
2 *United States derives from the assets to be transferred*
3 *at the time of the transfer.*

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